

FISCAL NOTE

Bill #: HB776

Title: Revise law on taxation of biodiesel and provide incentives

Primary Sponsor: Holly Raser

Status: As Amended in House Committee

Sponsor signature

Date

David Ewer, Budget Director

Date

Fiscal Summary

	<u>FY 2006 Difference</u>	<u>FY 2007 Difference</u>
Expenditures:		
General Fund	\$0	\$0
Revenue:		
General Fund	\$0	(\$48,000)
Net Impact on General Fund Balance:	\$0	(\$48,000)

<input type="checkbox"/> Significant Local Gov. Impact	<input checked="" type="checkbox"/> Technical Concerns
<input type="checkbox"/> Included in the Executive Budget	<input checked="" type="checkbox"/> Significant Long-Term Impacts
<input type="checkbox"/> Dedicated Revenue Form Attached	<input type="checkbox"/> Needs to be included in HB 2

Fiscal Analysis

ASSUMPTIONS:

1. Under proposed law, qualifying taxpayers would be entitled to a tax credit for investments in biodiesel storage and blending equipment. The credit may be used to offset individual income and corporation license taxes. The credit is 15% of the cost of the equipment. Maximum credit is \$52,500 for a special fuel distributor, and \$7,500 for an owner or operator of a motor fuel outlet. The credit is nonrefundable, and must be claimed in the year in which the taxpayer begins blending biodiesel fuel.
2. Per 15-70-301, MCA, and under proposed law, biodiesel is B-100. Any blend of B-100 with petroleum diesel, which is at least 2% B-100, is blended biodiesel.
3. A credit may be recaptured if sales of B-100 are not at least 2% of the taxpayer's total diesel sales by the end of the third year following the year in which the credit is claimed (see Technical Note 3), or if the facility for which a credit is claimed ceases operations within 5 years of claiming the credit.
4. Under proposed law, a refund of 2 cents a gallon will be paid to licensed distributors for biodiesel on which they have paid the special fuels tax, if the fuel is made entirely from ingredients produced in Montana.
5. Under proposed law, a refund of 1 cent a gallon will be paid to retail stations for biodiesel made entirely from ingredients produced in Montana, and purchased from a licensed distributor.

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6. A licensed distributor who is also a retailer may receive both refunds.
7. This bill is effective on passage and approval.
8. By section 12 (applicability), section 1 (investment tax credit) applies retroactively to tax years beginning after December 31, 2004; and section 2 (special fuels tax refunds) applies to biodiesel distributed or purchased in calendar quarters beginning after June 30, 2005
9. There are presently two licensed distributors and three retailers who sell biodiesel. It is estimated the number will increase to three licensed distributors and five retailers.
10. Projected FY 2006 production of B-100 from Montana ingredients is zero gallons.
11. Since FY 2006 production of B-100 is zero, tax credits and refunds payable in FY 2006 are zero.
12. Projected FY 2007 production of B-100 from Montana ingredients is 3,000,000 gallons, with 1,000,000 gallons produced in each of the last three quarters.
13. Since production of B-100 does not begin until the fourth quarter of TY 2006, and existing storage may be utilized to store and blend B-100, tax credits payable in FY 2007 are zero.
14. Applications for refunds are due 30 days after the end of the calendar quarter starting with the quarter beginning after June 30, 2005. In FY 2007, refunds would be payable on biodiesel distributed or sold in the second and third quarters.
15. It is assumed that 80% of the 2,000,000 gallons of potentially refundable biodiesel available in FY 2007 will be distributed and retailed in Montana.
16. Under proposed law, refundable gallons in FY 2007 are 1,600,000 {2,000,000 gallons * 0.80}
17. Under proposed law, refunds payable in FY 2007 will be \$48,000 {1,600,000 gallons * \$0.03/gallon}.
18. The Department of Revenue will not incur administrative expense in complying with this bill.
19. The Department of Transportation will incur minimal administrative expense in complying with this bill.

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FISCAL IMPACT:

	<u>FY 2006 Difference</u>	<u>FY 2007 Difference</u>
<u>Revenues:</u>		
General Fund (01)	\$0	(\$48,000)
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>		
General Fund (01)	\$0	(\$48,000)

LONG-RANGE IMPACTS:

This bill eliminates the 15% reduction in special fuels tax paid on biodiesel that would become effective if two contingencies are satisfied. The contingencies are:

- (i) An ethanol plant is operational and producing fuel in Montana,
- (ii) The net working capital in the restricted highway state special revenue account, excluding any proceeds obtained through debt financing, is at least \$20 million on June 30 following the date on which condition (i) is met.

The contingencies are expected to be satisfied June 30, 2007. The 15% reduction in special fuels tax would last four years. If these contingencies are satisfied June 30, 2007, proposed law would increase revenue to the Department of Transportation restricted highway account from FY 2008 through FY 2011.

The use of biodiesel is expected to increase if petroleum prices remain high. In addition, proponents claim biodiesel has lubricating and reduced emissions advantages. Projected use of biodiesel from Montana products increases from FY 2007.

TECHNICAL NOTES:

1. "Storage and blending equipment", "motor fuel outlets", and "retail motor fuel outlets" are not defined.
2. Section 1 (4)(b) allows credit recapture if sales of B-100 are not at least 2% of the taxpayer's total sales by the end of the third year following the tax year in which the credit is claimed. It is not clear how the value of the B-100 is determined if the distributor or retailer is selling blended biodiesel.